

O'NEILL / HASSEN

Attorneys at Law

MEMO ENDORSED

September 1, 2020

VIA ECF

Honorable Denise L. Cote
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Granted. Defendant's motions shall be due 10/2/2020;
Government's opposition due 10/9/20.
So Ordered: 9-03-22020


DENISE COTE

RE: *United States v. Jose Baez*, 19 Cr

United States District Judge

Dear Judge Cote:

I represent Jose Baez in the above-captioned matter. I am writing to request a one-month extension to the motions schedule in this case. The government does not take a position on this request.

The government and defense counsel are currently engaging in negotiations in an attempt to resolve this matter short of trial. We are hopeful that the additional time will obviate the need for pretrial litigation.

Additionally, the discovery in this matter is extremely voluminous. We have thus far received discovery on a rolling basis in three installments: We received the first tranche on August 7, 2020; the second on August 14, 2020 and a third on August 25, 2020. Each of the installments have been voluminous and complicated to review.

For example, the government has sent us 20 wire applications and orders, but those applications reference dozens of other applications and approximately 120 different phones were intercepted over the past five years. These intercepts provide a basis for the Title III search warrant application that eventually lead to Mr. Baez's arrest. The search warrant and Pen Register which resulted in Mr. Baez's arrest relied on these earlier search warrants to establish probable cause. We have not received any of the actual intercepted messages and have no way of validating the agents' claims in their affidavits. We received the Title III search warrant returns (the intercepted telephone messages) that lead to Mr. Baez's arrest, on August 25, 2020 and the return contains 8,434 calls and messages that are in Spanish and will need to be translated. We have not yet finished reviewing the warrants and have not begun review of those phone calls which we have.

The government has alleged that Mr. Baez participated as a courier in both a vast international narcotics conspiracy and a money laundering conspiracy. We received discovery of bank account statements and emails relating to the money laundering conspiracy on August 7, 2020. Many of the emails are in Spanish and must be translated to be reviewed. The bank account statements include approximately 65 accounts,

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hundreds if not thousands of wire transfers, and hundreds of thousands of pages of statements. There are thousands of accounts referenced in these wires which are in China, Colombia, Canada, Mexico, and the United States, among other countries. We have not yet had the opportunity to review and organize each of these bank accounts and wire transfers. No underlying warrants relating to these bank accounts have been provided.

There are approximately 45 different applications for historical cellsite data and pen register information both for the narcotics conspiracy and the money laundering conspiracies. (Again, Mr. Baez is alleged to have been involved in both conspiracies as a courier.) The government alleges that other parties were tracked to a location where Mr. Baez was arrested using pen data that was lawfully intercepted pursuant to these applications. We have not yet had the opportunity to review these cellsite applications, nor the actual cellsite data.

The government has provided us with warrants for email accounts and whats app accounts. Each of the returns for the 8 email accounts is split into hundreds of documents, many of which have thousands of pages. The email returns are provided in PDF format, rather than the mbox file that google gives to law enforcement; this makes review more challenging. Many of the emails are in Spanish and must be translated. There are dozens of emails which were searched pursuant to warrants in this case, but for which we do not yet have returns. The whatsapp returns comprise hundreds of documents, some of which contain thousands of pages. Interspersed among the text messages in English is Hebrew that must be translated.

There are numerous surveillance videos provided by the government in the discovery; there are more pole cameras and videos referenced in the various search warrant applications provided.

This case is extremely complex, and the discovery is quite voluminous. It has taken a considerable amount of time to understand the contours of the discovery, let alone review it all, organize the materials in it, and formulate legal strategy regarding any motions. The delay has been compounded by COVID-19. For the first two weeks of the case, Mr. Baez was placed in quarantine because he was exposed to COVID-19 at the DEA office when he turned himself in for his arraignment. Mr. Baez speaks only Spanish and I speak only English and we must use the services of an interpreter.

Various branches of federal and state government have been working on this case for the past five years. Counsel has had the discovery for less than a month, and we simply have not had enough time to review it and determine whether there are any motions which are appropriate and necessary to provide Mr. Baez with effective assistance of counsel. Additionally, we are hopeful that we can resolve this matter short of trial but need additional time to negotiate with the government. I kindly ask that the Court adjourn the motions deadline to allow sufficient time to review the discovery, determine what motions are appropriate, and draft those motions.

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I appreciate the Courts attention to this matter. I hope and trust that everyone is safe and healthy.

Kind regards,

/s/

Grainne E. O'Neill
Attorney for Jose Baez

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